

Application No. 10/002,026  
Amendment "A" dated May 2005  
Reply to Office Action mailed March 28, 2005

### REMARKS

Initially, Applicants would like to thank the examiner for taking time to discuss this case with Applicants' attorney on May 11, 2005. The amendments made by this paper are consistent with the discussions and proposals presented during the interview.

The first Office Action, mailed March 28, 2005, considered claims 1-37. Claims 1-8, 12-18, 20-27, and 30-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Peters, et al. (U.S. Patent No. 6,449,688 B1). Claims 9-10, 11, 19, 28-29, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters, in view of Srinivasan, et al. (U.S. Patent No. 6,357,042 B2).<sup>1</sup>

By this paper, claims 1, 13, 20 and 31 have been amended, and new claims 38-39 have been added, such that claims 1-39 remain pending, and of which claims 1, 13, 20 and 31 are the only independent claims at issue.<sup>2</sup>

As discussed during the interview, the present invention is generally directed to embodiments for generating data streams that are broadcast to client systems and that includes scheduling the insertion of data into the data streams/broadcast streams. The method recited in claim 1, for example, includes storing an identifier for at least one data source and that indicates where the data is and a bandwidth allocation associated with requirements for broadcasting the data. For each identifier, scheduling information is stored that comprises a time when the data should be added to a data stream that is broadcast to client systems. However, the scheduling information is stored only after first checking any previously existing scheduling information to verify that adequate bandwidth is available in the data stream for adding the data to the data stream at the time specified by the scheduling information. Next, the method includes requesting and receiving the data from the at least one data source; and at the time specified in the scheduling information, adding the data obtained from the at least one data source to the data stream, wherein the data is broadcast to the one or more client systems in accordance with the scheduling information.

<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support for the language in the claims, including that found in paragraphs 35 and 43, and that based on previously presented claims 7 and 8 was reviewed and examined carefully during the interview and was found to support the language in the claim amendments and new claims.

Application No. 10/002,026  
Amendment "A" dated May 2005  
Reply to Office Action mailed March 28, 2005

Claim 20 is directed to a corresponding computer program product and claims 13 and 31 are directed to similar method and computer program product embodiments recited from the perspective of a broadcast system, whereas claims 1 and 20 are recited from the perspective of the broadcaster. Subtle changes recited in claims 13 and 31, for example, include the broadcast system actually generating the data stream that is broadcast, rather than only adding data to an existing stream.

As further discussed during the interview, the cited art fails either singly or in combination to anticipate or obviate the claimed invention. In particular, while Peters generally relates to embodiments for accessing media from storage units over a network, the art clearly fails to disclose or suggest, alone or in combination with any other known art of record, an embodiment for generating a data stream of a specified bandwidth, as claimed, and that includes the elements recited above, such as, but not limited to storing an identifier that identifies bandwidth required to broadcast data and a time when the data should be inserted into a data stream, and only after first making sure that there is adequate bandwidth available in the data stream for adding the data.

To the contrary, while Peters states that "the file system may read each segment by scheduling the transfer of the data from the selected storage unit," Peters fails to describe how that scheduling is performed. Instead, Peters spends time talking about how different redundant storage units can be requested to provide data and honor or deny the requests depending on their availability and ability to satisfy the requests within a predetermined time period. (col. 3, ln. 59-col. 4, ln. 5). Peters does not, however, deal with generating a data stream/broadcast that is broadcast. Peters also clearly fails to disclose any method or embodiment for scheduling the insertion of data into a data stream, particularly as recited in the pending claims, wherein scheduling is dependent on available bandwidth of the data stream and the bandwidth allocation required to broadcast the data to be inserted in the broadcast stream.

Peters also fails to anticipate or describe such an embodiment that further includes recommending a refresh or retransmission frequency for data having a specified bandwidth (claim 38)<sup>3</sup> or wherein the data stream is broadcast to a plurality of clients even though it is only

<sup>3</sup> The disclosure cited to reject similar elements in claim 8 (col. 11 and 12) only deals with likelihood of double faults and the submission of requests until the request is satisfied by a storage unit. It does not deal with recommending refresh or retransmission frequencies, as claimed, however.

Application No. 10/002,026  
Amendment "A" dated May 2005  
Reply to Office Action mailed March 28, 2005

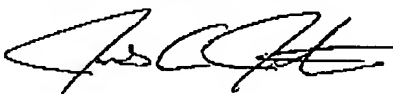
intended to be consumed by one of the clients and accordingly consumed by only the one of the clients (claim 39).

For at least these reasons, as well as the others that were presented during the interview, all of the rejections of record are now moot, such that the assertions made in the last action regarding the prior art and the pending claims need not be addressed at this time, including the rejections to all of the dependent claims. Nevertheless, it will be appreciated, that Applicants do not necessarily acquiesce to any of the arguments and assertions made in the last action and reserve the right to challenge those arguments and assertions in the future, should the need arise.

Accordingly, for at least these reasons, Applicants respectfully submit that the pending claims 1-39 are in condition for immediate allowance. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 25 day of May, 2005.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 28,651  
JENS C. JENKINS  
Registration No. 44,803  
Attorneys for Applicant  
Customer No. 047973

JCI:ahm  
AHM0000001109V001